

STATE OF INDIANA  
INDIANA UTILITY REGULATORY COMMISSION

**FILED**

JUN 02 2008

PETITION OF THE CITY OF BOONVILLE,  
INDIANA, FOR AUTHORITY TO ISSUE  
BONDS AND FOR APPROVAL OF A NEW  
SCHEDULE OF RATES AND CHARGES )  
)  
)  
)

INDIANA UTILITY  
Cause No. 43477 REGULATORY COMMISSION

**PREFILED DIRECT EXAMINATION TESTIMONY OF SHAWN R. WRIGHT**

1 **Q. Please state your name and business address.**

2 A. Shawn R. Wright, 117 E. Locust Street, Boonville, Indiana 47601.

3 **Q. What is your occupation and present position?**

4 A. I am a Project Manager for Veolia Water North America for the City of Boonville's  
5 ("City") water and wastewater utility. In general, I manage the City's infrastructure for  
6 water, sewer, and public works.

7 **Q. How long have you held that position?**

8 A. Since March 2004.

9 **Q. Please describe your professional education and training and career positions in the**  
10 **utility field.**

11 A. I earned a B.S. in Mathematics from the University of Southern Indiana. I began working  
12 in the water industry in 1994 and have held several positions, working my way up from a  
13 water treatment operator, Superintendent of Water Treatment and Project/General  
14 Manager of several utilities in Indiana and Kentucky.

1 **Q. Please describe any professional organizations and societies in which you are a**  
2 **member.**

3 A. I am a member of the American Water Works Association, Indiana Rural Water  
4 Association, Kentucky Rural Water Association, Water Environment Federation, and  
5 several other small organizations.

6 **Q. Please describe generally the City's waterworks system.**

7 A. The Boonville waterworks system is located in Boone Township of Warrick County. The  
8 main components of the system include: four raw water wells, one water treatment plant,  
9 and about fifty miles of water line serving approximately 3,700 customers. This system  
10 is more particularly described in the testimony of Mr. Brian A. Bullock, P.E., filed in this  
11 Cause.

12 **Q. Is the City's waterworks in need of improvements? If so, please explain.**

13 A. The City's waterworks is in serious need of improvements. Currently, the City's water  
14 treatment plant is operating at about 55% of its current design capacity. Unfortunately,  
15 the current Water treatment plant is in need of major repairs. All six (6) filters need  
16 complete rehabilitations or replacements; and the building needs substantial  
17 improvements to meet new standards. Without these improvements, the current demand  
18 of the customers will be limited and completely prevent any future growth. The proposed  
19 improvements are more particularly described in the testimony of Mr. Brian A. Bullock,  
20 P.E., filed in this Cause.

21 **Q. How does the City plan to finance these improvements?**

22 A. The City plans to make the improvements to the water system through the issuance of  
23 waterworks revenue bonds. The City's ordinance authorizing the issuance of waterworks

1 revenue bonds is Ordinance 2008-03 ("Bond Ordinance"). A copy of the Bond  
2 Ordinance is designated as Petitioner's Exhibit No. SRW-1A.

3 **Q. Is the City requesting a rate increase in this Cause for its waterworks?**

4 A. Yes, the existing rates and charges are not sufficient to enable the City to finance the  
5 proposed improvements and meet its statutory requirements. The rate increase is  
6 described in more detail in the testimony of Mr. John M. Seever filed in this Cause. A  
7 copy of the City's proposed ordinance to authorize the adjustment of rates and charges is  
8 attached hereto as Petitioner's Exhibit No. SRW-1B. This proposed ordinance will be  
9 introduced on June 5, 2008.

10 **Q. Do you have anything further to add with respect to the City's request for relief in**  
11 **this Cause?**

12 A. No.

13 **Q. Does this conclude your testimony in this proceeding?**

14 A. Yes.

15  
I/2151297.1

ORDINANCE NO. 2008-03

An Ordinance of the City of Boonville authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of said City, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds and repealing ordinances inconsistent herewith

WHEREAS, the City of Boonville ("City") now owns and operates an unencumbered municipal waterworks in accordance with the provisions of Title 8, Article 1.5 of the Indiana Code, as in effect on the date of delivery of the bonds herein authorized ("Act"), furnishing the public water supply to the City and its inhabitants; and

WHEREAS, the Common Council of the City finds that certain additions, improvements and extensions to said works are necessary; and that specifications and estimates have been prepared and filed by the engineers employed by the City for the construction of said additions, improvements and extensions, as more fully described on Exhibit A attached hereto and made a part hereof ("Project"), which specifications and engineering estimates have been approved by the Common Council and by all governmental authorities having jurisdiction, particularly the Indiana Department of Environmental Management; and

WHEREAS, the City will advertise for and receive bids for the construction of the Project, which bids will be subject to the City's determination to construct the Project and subject to the City's obtaining funds to pay for the Project; that on the basis of said engineering estimates, the maximum cost of the Project, including incidental expenses, is in the estimated amount of \$8,400,000; and

WHEREAS, the Common Council finds that it does not have sufficient funds on hand to apply on the costs of the Project and that such cost of the Project may be financed by the issuance of waterworks revenue bonds in an amount not to exceed \$8,400,000, and, if necessary, bond anticipation notes ("BANs"); and

WHEREAS, the Common Council finds that there are outstanding bonds payable out of the Net Revenues (as hereinafter defined) of the City's waterworks designated "Waterworks Revenue Bonds of 2006" ("2006 Bonds"), now outstanding in the amount of \$4,215,000 and maturing annually over a period ending January 1, 2027, which 2006 Bonds constitute a first charge upon the Net Revenues of the waterworks; and

WHEREAS, the terms and conditions of the ordinance authorizing the issuance of the now outstanding 2006 Bonds (hereinafter, "Outstanding Bonds") provide that additional revenue bonds may be issued on a parity with the Outstanding Bonds provided certain tests are met, and the City finds that the finances of the waterworks are such as will enable meeting the conditions for the issuance of additional parity bonds and that, accordingly, the additional revenue bonds to be issued hereunder shall rank on a parity with the Outstanding Bonds; and

WHEREAS, the bonds to be issued pursuant to this ordinance are to be issued subject to the provisions of the laws of the State of Indiana, including, without limitation, the Act, and the terms and restrictions of this ordinance; and

WHEREAS, the City may enter into a Financial Assistance Agreement with the Indiana Finance Authority ("Authority") as part of its drinking water loan program established and existing pursuant to IC 4-4-11 and IC 13-18-21 ("DWSRF Program"), pertaining to the Project and the financing of the Project ("Financial Assistance Agreement") if the bonds are sold to the Authority through its DWSRF Program; and

WHEREAS, the City is subject to the jurisdiction of the Indiana Utility Regulatory Commission; and

WHEREAS, the Common Council has been advised that it may be cost efficient to purchase municipal bond insurance and a debt service reserve surety for all or a portion of the bonds authorized herein; and

WHEREAS, the City desires to authorize the issuance of BANs hereunder, if necessary, payable from the proceeds of waterworks revenue bonds issued to finance the aforementioned cost of the Project and to authorize the refunding of the BANs, if issued; and

WHEREAS, the Common Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of revenue bonds and BANs have been complied with in accordance with the provisions of the Act;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BOONVILLE, INDIANA, THAT:

Section 1. Authorization of Project. The City proceed with the construction of the Project in accordance with the cost estimates and the specifications heretofore prepared and filed by the consulting engineers employed by the City, which specifications are now on file in the office of the Clerk-Treasurer of the City, and are hereby adopted and approved, and by reference made a part of this ordinance as fully as if the same were attached hereto and incorporated herein. Two copies of the specifications and the cost estimates are on file in the office of the Clerk-Treasurer of the City and open for public inspection pursuant to IC 8-1.5. The estimated cost of construction of the Project is expected not to exceed the sum of \$8,400,000, plus investment earnings on the bond and BAN proceeds. The terms "waterworks," "waterworks system," "system," "works," and other like terms where used in this ordinance shall be construed to mean and include the Drinking Water System, as defined in the Financial Assistance Agreement, and includes all real estate and equipment used in connection therewith and appurtenances thereto, and all extensions, additions, and improvements thereto and replacements thereof now or at any time hereafter constructed or acquired. The Project shall be constructed in accordance with the specifications heretofore mentioned, which specifications are hereby approved. The Project shall be constructed and the bonds herein authorized shall be issued pursuant to and in accordance with the Act.

Section 2. Issuance of BANs and Bonds. (a) The City shall issue, if necessary, its BANs, in one or more series, for the purpose of procuring interim financing to apply to the cost of the Project. The City shall issue its BANs in an amount not to exceed Eight Million Four Hundred Thousand Dollars (\$8,400,000) to be designated "Waterworks Bond Anticipation Notes of \_\_\_\_\_ (to be completed with the year in which issued)." The BANs shall be sold at a price not less than 99% of their par value, shall be numbered consecutively from 1 upward, shall be in denominations of One Thousand Dollars (\$1,000) or if sold to the Authority as part of the

DWSRF Program, One Dollar (\$1), as designated in the purchase agreement for the BANs, shall be dated as of the date of delivery thereof, and shall bear interest at a rate not to exceed 6% per annum (the exact rate or rates to be determined through negotiation). Each series of BANs will mature no later than two (2) years after their date of delivery. The BANs are subject to renewal or extension at an interest rate or rates not to exceed 6% per annum (the exact rate or rates to be negotiated). The term of the BANs and all renewal BANs may not exceed five years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof.

The BANs shall be issued pursuant to IC 5-1.5-8-6.1 if sold to the Indiana Bond Bank, pursuant to IC 4-4-11 and IC 13-18-21 if sold to the Authority, or pursuant to IC 5-1-14-5 if sold to a financial institution. The principal of and interest on the BANs shall be payable solely from the issuance of revenue bonds pursuant to and in the manner prescribed by the Act. The revenue bonds will be payable solely out of and constitute a first charge against the Net Revenues (herein defined as gross revenues of the waterworks of the City after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the waterworks of the City, on a parity with the Outstanding Bonds.

(b) The City shall issue its waterworks revenue bonds, in one or more series, in an aggregate principal amount not to exceed Eight Million Four Hundred Thousand Dollars (\$8,400,000) to be designated "Waterworks Revenue Bonds of 200\_\_\_\_," to be completed with the year in which issued and series designation, if applicable ("Bonds"), for the purpose of procuring funds to be applied on the cost of the Project, the payment of costs of issuance including a premium for municipal bond insurance and a debt service reserve surety, if necessary, refunding the BANs, if issued, and all other costs related to the Project.

The Bonds shall be sold at a price of par and shall be issued in the denomination of One Dollar (\$1) each if sold to the Authority as part of its DWSRF Program or shall be sold at a price not less than 98% of the par value thereof and shall be issued in the denomination of Five Thousand Dollars (\$5,000) each or integral multiples thereof, if sold to another purchaser, numbered consecutively from 1 upward, dated as of the date of delivery and shall bear interest at a rate or rates not exceeding 6% per annum (the exact rate or rates to be determined through negotiation with the Authority through its DWSRF Program, or as determined by bidding), payable semiannually on January 1 and July 1 in each year, beginning on the first January 1 or the first July 1 following the date of delivery of the Bonds, as determined by the Clerk-Treasurer with the advice of the City's financial advisor. The Bonds shall mature annually on January 1 of each year over a period ending no later than twenty (20) years after substantial completion of the Project (as determined under the Financial Assistance Agreement for any Bonds sold to the Authority as part of its DWSRF Program), or ending no later than twenty-five (25) years after the date of issuance of the Bonds if sold to another purchaser, and in such amounts that will allow the City to meet the coverage and/or amortization requirements of the DWSRF Program. Such debt service schedule for any Bonds sold to the Authority as part of its DWSRF Program shall be finalized and set forth in the Financial Assistance Agreement. For any Bonds not sold to the Authority as part of its DWSRF Program, such Bonds may mature in amounts that produce as level debt service as practicable with \$5,000 denominations and may take into account the annual debt service on the Outstanding Bonds and any other series of Bonds issued under this ordinance. Interest on the Bonds and BANs shall be calculated according to a 360-day calendar year containing twelve 30-day months. All or a portion of the Bonds may be issued as one or more term bonds, upon election of the successful bidder. Such term bonds shall have a stated

maturity or maturities on January 1 in the years as determined by the successful bidder, but in no event later than the last serial maturity date of the Bonds as determined in accordance with the above paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at 100% of the principal amount thereof, plus accrued interest to the redemption date, on principal payment dates which are hereinafter determined in accordance with the above paragraph.

Section 3. Registrar and Paying Agent. The Mayor and the Clerk-Treasurer are hereby authorized to contract with a qualified financial institution to serve as Registrar and Paying Agent for the Bonds ("Registrar" or "Paying Agent"). The Registrar is hereby charged with the responsibility of authenticating the Bonds. The Clerk-Treasurer is hereby authorized to enter into such agreements or understandings with the Registrar as will enable the institution to perform the services required of a registrar and paying agent. The Clerk-Treasurer is further authorized to pay such fees as the Registrar may charge for the services it provides as Registrar and Paying Agent and such fees may be paid from the Waterworks Sinking Fund established to pay the principal of and interest on the Bonds as fiscal agency charges.

As to the BANs and as to the Bonds, if sold to the Authority through its DWSRF Program, or any other purchaser that does not object to such designation, the Clerk-Treasurer shall serve as Registrar and Paying Agent and is hereby charged with the performance of and all duties of and responsibilities of Registrar and Paying Agent. As to the Bonds or BANs sold to the Authority through its DWSRF Program, the principal of and interest thereon shall be paid by wire transfer to such financial institution if and as directed by the Authority on the due date of such payment or, if such due date is a day when financial institutions are not open for business, on the business day immediately after such due date. So long as the Authority, as part of its DWSRF Program is the owner of the Bonds or BANs, such Bonds and BANs shall be presented for payment as directed by the Authority. If such Bonds are not sold to the Authority as part of its DWSRF Program or if wire transfer payment is not required, the principal of the Bonds and the principal and interest on the BANs shall be payable at the principal corporate trust office of the Paying Agent. All payments of interest on the Bonds shall be paid by check mailed to the registered owners thereof, as of the fifteenth day of the month preceding each interest payment date ("Record Date"), at the addresses as they appear on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by such registered owner on or before such Record Date. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall be instructed to wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time). All payments on the Bonds and BANs shall be made in any coin or currency of the United States of America, which on the date of such payment, shall be legal tender for the payment of public and private debts. Each Bond shall be transferable or exchangeable only upon the books of the City kept for that purpose at the principal corporate trust office of the Registrar by the registered owner in person, or by its attorney duly authorized in writing, upon surrender of such Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or its attorney duly authorized in writing, and thereupon a new fully registered Bond or Bonds in an authorized aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the registered owner, as the case



may be, in exchange therefor. The costs of such transfer or exchange shall be borne by the City except for any tax or governmental charge required to be paid with respect to the transfer or exchange, which taxes or governmental charges are payable by the person requesting such transfer or exchange. The City, Registrar and Paying Agent for the Bonds may treat and consider the person in whose name such Bonds are registered as the absolute owner thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon. The Registrar and Paying Agent may at any time resign as Registrar and Paying Agent upon giving 30 days' notice in writing to the City and by first class mail to each registered owner of the Bonds then outstanding, and such resignation will take effect at the end of such 30 day period or upon the earlier appointment of a successor registrar and paying agent by the City. Any such notice to the City may be served personally or sent by registered mail. The Registrar and Paying Agent may be removed at any time as Registrar and Paying Agent by the City, in which event the City may appoint a successor registrar and paying agent. The City shall notify each registered owner of the Bonds then outstanding by first class mail of the removal of the Registrar and Paying Agent. Notices to the registered owners of the Bonds shall be deemed to be given when mailed by first class mail to the addresses of such registered owners as they appear on the registration books kept by the Registrar. Upon the appointment of any successor registrar and paying agent by the City, the Clerk-Treasurer is authorized and directed to enter into such agreements and understandings with such successor registrar and paying agent as will enable the institution to perform the services required of a registrar and paying agent for the Bonds. The Clerk-Treasurer is further authorized to pay such fees as the successor registrar and paying agent may charge for the services it provides as registrar and paying agent and such fees may be paid from the Waterworks Sinking Fund continued in Section 15 hereof. Any predecessor registrar and paying agent shall deliver all of the Bonds and any cash or investments in its possession with respect thereto, together with the registration books, to the successor registrar and paying agent. Interest on the Bonds sold to the Authority, as part of its DWSRF Program, shall be payable from the date or dates of payment made by the Authority as part of its purchase of the Bonds pursuant to the Financial Assistance Agreement. Interest on all other Bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date of the Bonds unless the Bonds are authenticated after the Record Date and on or before such interest payment date in which case they shall bear interest from such interest payment date, or unless the Bonds are authenticated on or before the Record Date preceding the first interest payment date, in which case they shall bear interest from the original date until the principal shall be fully paid. The City has determined that it may be beneficial to the City to have the Bonds held by a central depository system pursuant to an agreement between the City and The Depository Trust Company, New York, New York ("Depository Trust Company") and have transfers of the Bonds effected by book-entry on the books of the central depository system ("Book Entry System"). The Bonds may be initially issued in the form of a separate single authenticated fully registered Bond for the aggregate principal amount of each separate maturity of the Bonds. In such case, upon initial issuance, the ownership of such Bonds shall be registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company. With respect to the Bonds registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, the City and the Paying Agent shall have no responsibility or obligation to any other holders or owners (including any beneficial owner ("Beneficial Owner")) of the Bonds with respect to (i) the accuracy of the records of the Depository Trust Company,

CEDE & CO., or any Beneficial Owner with respect to ownership questions, (ii) the delivery to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any notice with respect to the Bonds including any notice of redemption, or (iii) the payment to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any amount with respect to the principal of, or premium, if any, or interest on the Bonds except as otherwise provided herein. No person other than the Depository Trust Company shall receive an authenticated Bond evidencing an obligation of the City to make payments of the principal of and premium, if any, and interest on the Bonds pursuant to this ordinance. The City and the Registrar and Paying Agent may treat as and deem the Depository Trust Company or CEDE & CO. to be the absolute bondholder of each of the Bonds for the purpose of (i) payment of the principal of and premium, if any, and interest on such Bonds; (ii) giving notices of redemption and other notices permitted to be given to bondholders with respect to such Bonds; (iii) registering transfers with respect to such Bonds; (iv) obtaining any consent or other action required or permitted to be taken of or by bondholders; (v) voting; and (vi) for all other purposes whatsoever. The Paying Agent shall pay all principal of and premium, if any, and interest on the Bonds only to or upon the order of the Depository Trust Company, and all such payments shall be valid and effective fully to satisfy and discharge the City's and the Paying Agent's obligations with respect to principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. Upon delivery by the Depository Trust Company to the City of written notice to the effect that the Depository Trust Company has determined to substitute a new nominee in place of CEDE & CO., and subject to the provisions herein with respect to consents, the words "CEDE & CO." in this ordinance shall refer to such new nominee of the Depository Trust Company. Notwithstanding any other provision hereof to the contrary, so long as any Bond is registered in the name of CEDE & CO., as nominee of the Depository Trust Company, all payments with respect to the principal of and premium, if any, and interest on such Bonds and all notices with respect to such Bonds shall be made and given, respectively, to the Depository Trust Company as provided in a representation letter from the City to the Depository Trust Company.

(a) Upon receipt by the City of written notice from the Depository Trust Company to the effect that the Depository Trust Company is unable or unwilling to discharge its responsibilities and no substitute depository willing to undertake the functions of the Depository Trust Company hereunder can be found which is willing and able to undertake such functions upon reasonable and customary terms, then the Bonds shall no longer be restricted to being registered in the register of the City kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, but may be registered in whatever name or names the bondholders transferring or exchanging the Bonds shall designate, in accordance with the provisions of this ordinance.

(b) For any series of Bonds not sold to the Authority as part of its DWSRF Program, such Bonds are redeemable at the option of the City, but no sooner than ten (10) years after their date of delivery, or any date thereafter, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the City and by lot within a maturity, at face value, together with a premium no greater than 2%, plus in each case accrued interest to the date fixed for redemption. The exact redemption features shall be determined by the Clerk-Treasurer with the advice of the City's financial advisor and shall be set out in the notice of sale described in Section 8 herein.

(c) For any series of Bonds sold to the Authority as part of its DWSRF Program, such Bonds are redeemable at the option of the City, but no sooner than ten (10) years after their date of delivery, or any date thereafter, on sixty (60) days' notice, in whole or in part, in inverse order of maturity, and by lot within a maturity, at face value together with a premium no greater than 2%, plus accrued interest to the date fixed for redemption. The exact redemption dates and premiums shall be established by the Clerk-Treasurer, with the advice of the City's financial advisor, prior to the sale of the Bonds.

(d) If any Bond is issued as a term bond, the Paying Agent shall credit against the mandatory sinking fund requirement for the Bonds maturing as term bonds, and corresponding mandatory redemption obligation, in the order determined by the City, any Bonds maturing as term bonds which have previously been redeemed (otherwise than as a result of a previous mandatory redemption requirement) or delivered to the Registrar for cancellation or purchased for cancellation by the Paying Agent and not theretofore applied as a credit against any redemption obligation. Each Bond maturing as a term bond so delivered or cancelled shall be credited by the Paying Agent at 100% of the principal amount thereof against the mandatory sinking fund obligation on such mandatory sinking fund date, and any excess of such amount shall be credited on future redemption obligations, and the principal amount of the Bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided, however, the Paying Agent shall credit only such Bonds maturing as term bonds to the extent received on or before sixty-five (65) days if sold to the Authority as a part of the DWSRF Program or forty-five (45) days if sold to any other purchaser preceding the applicable mandatory redemption date as stated above.

Each authorized denomination principal amount shall be considered a separate bond for purposes of optional and mandatory redemption. If less than an entire maturity is called for redemption, the Bonds to be called shall be selected by lot by the Registrar. If some Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the Bonds for optional redemption before selecting the Bonds by lot for the mandatory sinking fund redemption.

(e) In either case, notice of such redemption shall be given at least sixty (60) days for Bonds sold to the Authority as part of its DWSRF Program and not less than thirty (30) days for Bonds sold to any other purchaser prior to the date fixed for redemption by mail unless the notice is waived by the registered owner of a Bond. Such notice shall be mailed to the address of the registered owners as shown on the registration records of the City as of the date which is sixty-five (65) days for Bonds sold to the Authority as part of its DWSRF Program and forty-five (45) days for Bonds sold to any other purchaser prior to such redemption date. The notice shall specify the date and place of redemption and sufficient identification of the Bonds called for redemption. The place of redemption shall be determined by the City. Interest on the Bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the principal office of the Paying Agent to pay the redemption price on the date so named. Coincidentally with the payment of the redemption price, the Bonds so called for redemption shall be surrendered for cancellation.

Section 4. Execution and Negotiability. Each of the Bonds and BANs shall be executed in the name of the City by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of its Clerk-Treasurer, and the seal of the City shall be affixed, imprinted or impressed to or on each of the Bonds and BANs manually, by facsimile or any other means; and these officials, by the execution of a Signature and No Litigation

Certificate, shall adopt as and for their own proper signatures the facsimile signatures appearing on the Bonds or BANs. In case any officer whose signature or facsimile signature appears on the Bonds or BANs shall cease to be such officer before the delivery of the Bonds or BANs, the signature of such officer shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

The Bonds and BANs shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana, subject to the provisions for registration herein. The Bonds shall also be authenticated by the manual signature of the Registrar, and no Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed.

Section 5. Form of Bonds. The form and tenor of the Bonds shall be substantially as follows, all blanks to be filled in properly prior to delivery:

[Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City of Boonville, Indiana, or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.]

NO. \_\_\_\_\_

UNITED STATES OF AMERICA

STATE OF INDIANA  
COUNTY OF  
WARWICK

CITY OF BOONVILLE  
WATERWORKS REVENUE BOND OF 200

Interest	Rate	[MaturityDate]	Original	Date	Authentication	D	[CUSIP]
					ate		

REGISTERED OWNER:PRINCIPAL SUM:The City of Boonville, in Warwick County, State of Indiana ("City"), for value received, hereby promises to pay to the Registered Owner named above or registered assigns, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above[, or so much thereof as may be advanced from time to time and be outstanding as evidenced by the records of the registered owner making payment for this bond, or its assigns,] [on the Maturity Date set forth above] [in the years and in the amounts as set forth on Exhibit A attached hereto] (unless this bond be subject to and be called for redemption prior to maturity as hereinafter provided), and to pay interest hereon until the Principal Sum shall be fully paid at the rate per annum specified above from [the dates of payment made on this Bond] or [the interest payment date to which interest has been paid next preceding the Authentication Date of this Bond unless this Bond is authenticated after the fifteenth day of the month preceding an interest payment date and on or before such interest payment in which case it shall bear interest from such interest payment date, or unless this Bond is authenticated on or before \_\_\_\_\_ 15, 200\_\_, in which case it shall bear interest from the Original Date, which interest is payable semiannually on the first day of January and July in each year, beginning on \_\_\_\_\_ 1, 200\_\_\_. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months.[The principal of this Bond is payable at the principal of office of \_\_\_\_\_ ("Registrar" or "Paying Agent"), in the \_\_\_\_\_ of \_\_\_\_\_, Indiana]. All payments of [principal of and] interest on this bond shall be paid by [check mailed one business day prior to the interest payment date] or [wire transfer for deposit to a financial institution as directed by the Indiana Finance Authority ("Authority") on the due date or, if such due date] is a day when financial institutions are not open for business, on the business day immediately after such due date to the registered owner hereof as of the fifteenth day of the month preceding such interest payment date at the address as it appears on the registration books kept by [\_\_\_\_\_] ("Registrar" or "Paying Agent") in the \_\_\_\_\_ of \_\_\_\_\_, Indiana][the Registrar] or at such other address as is provided to the Paying Agent in writing by the registered owner. [If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time).] All payments on the bond shall be made in any coin or currency of the United States of America, which on the dates of such payment, shall be legal tender for the payment of public and private

debts. THE CITY SHALL NOT BE OBLIGATED TO PAY THIS BOND OR THE INTEREST HEREON EXCEPT FROM THE HEREINAFTER DESCRIBED SPECIAL FUND, AND NEITHER THIS BOND NOR THE ISSUE OF WHICH IT IS A PART SHALL IN ANY RESPECT CONSTITUTE A CORPORATE INDEBTEDNESS OF THE CITY WITHIN THE PROVISIONS AND LIMITATIONS OF THE CONSTITUTION OF THE STATE OF INDIANA. This bond is [the only] one of an authorized issue of bonds of the City, [of like tenor and effect, except as to numbering, interest rate, and dates of maturity] in the total amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_); numbered consecutively from 1 up; issued for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipally owned waterworks system of the City, [to refund interim notes issued in anticipation of the bonds] and to pay issuance expenses[, including a municipal bond insurance premium][ a debt service reserve surety premium]. This bond is issued pursuant to an Ordinance adopted by the Common Council of the City on the \_\_\_\_ day of \_\_\_\_\_, 2008, entitled "An Ordinance of the City of Boonville authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of said City, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith" ("Ordinance"), and in accordance with the provisions of Indiana law, including without limitation Indiana Code 8-1.5 as in effect on the date of delivery of the bonds of this issue ("Act"). [Reference is hereby made to the Financial Assistance Agreement ("Financial Assistance Agreement") between the City and the Authority concerning certain terms and covenants pertaining to the waterworks project and the purchase of this Bond as part of the drinking water loan program established and existing pursuant to IC 4-4-11 and IC 13-18-21.] Pursuant to the provisions of the Act and the Ordinance, the principal of and interest on this bond and all other bonds of said issue, and any bonds hereafter issued on a parity therewith are payable solely from the Waterworks Sinking Fund created by the Ordinance ("Sinking Fund") to be provided from the Net Revenues (defined as the gross revenues of the waterworks remaining after payment of the reasonable expenses of operation, repair and maintenance) of the waterworks of the City, on a parity with the Outstanding Bonds (as defined in the Ordinance). The City irrevocably pledges the entire Net Revenues of the waterworks to the prompt payment of the principal of and interest on the bonds authorized by the Ordinance, of which this is one, and any bonds ranking on a parity therewith, including the Outstanding Bonds, to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for services rendered by the utility as are sufficient in each year for the payment of the proper and reasonable expenses of [operation, repair and maintenance][Operation and Maintenance (as defined in the Financial Assistance Agreement)] of the waterworks and for the payment of the sums required to be paid into the Sinking Fund under the provisions of the Act and the Ordinance. If the City or the proper officers thereof shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this bond, the owner of this bond shall have all of the rights and remedies provided for in the Act under Indiana law. [The City has designated the Bonds as qualified tax-exempt obligations to qualify the Bonds for the \$10,000,000 exception from the provisions of Section 265(b) of the Internal Revenue Code of 1986 relating to the disallowance of 100% of the deduction for interest expense allocable to tax-exempt obligations.][The Bonds shall be initially issued in a Book Entry System (as defined in the Ordinance). The provisions of this bond and of the Ordinance are subject in all respects to

the provisions of the Letter or Representations between the City and The Depository Trust Company, or any substitute agreement, effecting such Book Entry System.]The City further covenants that it will set aside and pay into its Sinking Fund monthly, as available, or more often if necessary, a sufficient amount of the Net Revenues of the works for payment of (a) the interest on all bonds which by their terms are payable from the revenues of the waterworks, as such interest shall fall due, (b) the necessary fiscal agency charges for paying bonds and interest, (c) the principal of all bonds which by their terms are payable from the revenues of the waterworks, as such principal shall fall due, and (d) an additional amount as a margin of safety to [create and] maintain the debt service reserve required by the Ordinance. Such required payments shall constitute a first charge against the Net Revenues of said works, on a parity with the Outstanding Bonds. The bonds of this issue maturing on and after \_\_\_\_\_ 1, 20\_\_, are redeemable at the option of the City on \_\_\_\_\_, 20\_\_, or any date thereafter, on [sixty (60)][thirty (30)] days' notice, in whole or in part, [in inverse order of maturity][in the order of maturity as determined by the City] and by lot within a maturity, at face value, together with the following premiums:

\_\_\_\_% if redeemed on \_\_\_\_\_, 20\_\_, or thereafter  
on or before \_\_\_\_\_, 20\_\_;  
\_\_\_\_% if redeemed on \_\_\_\_\_, 20\_\_, or thereafter  
on or before \_\_\_\_\_, 20\_\_;  
\_\_\_\_% if redeemed on \_\_\_\_\_, 20\_\_, or thereafter  
prior to maturity;

plus accrued interest to the date fixed for redemption.

[The bonds maturing on \_\_\_\_\_ are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest, on January 1 in the years and in the amounts set forth below:

Term Bond

Year   Amount

\*

\* Final Maturity]Each [One Dollar (\$1)][Five Thousand Dollars (\$5,000)] principal amount shall be considered a separate bond for purposes of optional [and mandatory] redemption. If less than an entire maturity is called for redemption, the bonds to be redeemed shall be selected by lot by the Registrar. [If some bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the bonds for optional redemption before selecting the bonds by lot for the mandatory sinking fund redemption.] Notice of such redemption shall be mailed to the address of the registered owner as shown on the registration records of the City, as of the date which is [sixty-five (65)][forty-five (45)] days

prior to such redemption date, not less than [sixty (60)][thirty (30)] days prior to the date fixed for redemption unless the notice is waived by the registered owner of this bond. The notice shall specify the date and place of redemption and sufficient identification of the bonds called for redemption. The place of redemption may be determined by the City. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named. If this bond shall not be presented for payment or redemption on the date fixed therefor, the City may deposit in trust with its depository bank an amount sufficient to pay such bond or the redemption price, as the case may be, and thereafter the registered owner shall look only to the funds so deposited in trust with said bank for payment and the City shall have no further obligation or liability in respect thereto. This bond is transferable or exchangeable only upon the books of the City kept for that purpose at the principal office of the Registrar by the registered owner hereof in person, or by his attorney duly authorized in writing, upon surrender of this bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or his attorney duly authorized in writing, and thereupon a new fully registered bond or bonds in an authorized aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or to the registered owner, as the case may be, in exchange therefor. This bond may be transferred without cost to the registered owner except for any tax or governmental charge required to be paid with respect to the transfer. The City, the Registrar, the Paying Agent and any other registrar or paying agent for this bond may treat and consider the person in whose name this bond is registered as the absolute owner hereof for all purposes including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon. This bond is subject to defeasance prior to redemption or payment as provided in the Ordinance referred to herein. THE OWNER OF THIS BOND, BY THE ACCEPTANCE HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN THE ORDINANCE. The Ordinance may be amended without the consent of the owners of the bonds as provided in the Ordinance. The bonds maturing in any one year are issuable only in fully registered form in the denomination of [\$1][\$5,000] or any integral multiple thereof. It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the execution, issuance and delivery of this bond have been done and performed in regular and due form as provided by law. This bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been executed by an authorized representative of the Registrar. IN WITNESS WHEREOF, the City of Boonville, in Warwick County, Indiana, has caused this bond to be executed in its corporate name by the manual or facsimile signature of its Mayor, its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by its Clerk-Treasurer.

CITY OF BOONVILLE, INDIANA By:

\_\_\_\_\_  
Mayor

[SEAL]

Attest:



\_\_\_\_\_  
Clerk-Treasurer

## REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned Ordinance.

\_\_\_\_\_,  
as Registrar

By: \_\_\_\_\_

Authorized Representative

## [STATEMENT OF INSURANCE]

### ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ this bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney, to transfer the within bond in the books kept for the registration thereof with full power of substitution in the premises. Dated: \_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

Section 6. Authorization for Preparation and Sale of the Bonds and BANs, Municipal Bond Insurance and Official Statement. (a) The Clerk-Treasurer is hereby authorized and directed to have the Bonds and BANs prepared, and the Mayor and Clerk-Treasurer are hereby authorized and directed to execute and attest the Bonds and BANs in the form and manner provided herein. The Clerk-Treasurer is hereby authorized and directed to deliver the Bonds and

BANs to the respective purchasers thereof after the sale made in accordance with the provisions of this ordinance, provided that at the time of delivery of the Bonds and BANs, the Clerk-Treasurer shall collect the full amount which the respective purchasers have agreed to pay therefor, which amount shall not be less than 99% of the face amount of the BANs, and not less than 100% of the par value of the Bonds if sold to the Authority through its DWSRF Program or not less than 98% of the par value of the Bonds sold by competitive sale, as the case may be. The City may receive payment on the BANs and the Bonds in installments. The Bonds, as and to the extent paid for and delivered to the purchaser, shall be the binding special revenue obligations of the City payable out of the Net Revenues of the waterworks. The proper officers of the City are hereby directed to sell the Bonds, to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this ordinance.

(a) In the event the financial advisor to the City certifies to the City that it would be economically advantageous for the City to obtain a municipal bond insurance policy and a debt service reserve surety for the Bonds, the City hereby authorizes the purchase of such an insurance policy or surety. The acquisition of a municipal bond insurance policy or a debt service reserve surety is hereby deemed economically advantageous in the event the difference between the present value cost of: (i) the total debt service on the Bonds if issued without municipal bond insurance; and (ii) the total debt service on the Bonds if issued with municipal bond insurance, is greater than the cost of the premium on the municipal bond insurance policy or the debt service reserve surety. If such an insurance policy or debt service reserve surety is purchased, the Mayor and the Clerk-Treasurer are hereby authorized to execute and deliver all agreements with the provider of the policy or surety to the extent necessary to comply with the terms of such insurance policy or surety and the commitment to issue such policy or surety. Such agreement shall be deemed a part of this ordinance for all purposes and is hereby incorporated herein by reference.

(b) Distribution of an Official Statement (preliminary and final) for the Bonds, prepared on behalf of the City, is hereby authorized and approved and the Mayor and the Clerk-Treasurer are authorized and directed to execute the Official Statement on behalf of the City in a form consistent with the ordinance. The Mayor or Clerk-Treasurer is hereby authorized to designate the Official Statement as "nearly final" for purposes of Rule 15c2-12 as promulgated by the Securities and Exchange Commission ("Rule").

Section 2. Bond Sale Notice. If the Bonds will be sold at a competitive sale, the Clerk-Treasurer shall cause to be published either (i) a notice of such sale in the *Boonville*

*Standard* two times, at least one week apart, the first publication made at least fifteen (15) days before the date of the sale and the second publication being made at least three (3) days before the date of the sale, or (ii) a notice of intent to sell in the *Boonville Standard* and the *Court & Commercial Record*, all in accordance with IC 5-1-11 and IC 5-3-1. A notice or summary notice of sale may also be published one time in the *Court & Commercial Record*, and a notice or summary notice may also be published in *The Bond Buyer* in New York, New York. The notice shall state the character and amount of the Bonds, the maximum rate of interest thereon, the terms and conditions upon which bids will be received and the sale made, and such other information as the Clerk-Treasurer and the attorneys employed by the City shall deem advisable and any summary notice may contain any information deemed so advisable. Said notice may provide, among other things, that each bid shall be accompanied by a certified or cashier's check or a financial surety bond to guarantee performance on the part of the bidder. If a financial surety bond is used, it must be from an insurance company licensed to issue such bond in the State of Indiana, and such bond must be submitted to the City prior to the opening of the bids. The financial surety bond must identify each bidder whose good faith deposit is guaranteed by such financial surety bond. If the Bonds are awarded to a bidder utilizing a financial surety bond, then that purchaser is required to submit to the City a certified or cashier's check (or wire transfer such amount as instructed by the City) not later than 3:30 p.m. (Boonville time) on the next business day following the award. If such good faith deposit is not received by that time, the financial surety bond shall be drawn by the City to satisfy the good faith deposit required. In the event the successful bidder shall fail or refuse to accept delivery of the Bonds and pay for the same as soon as the Bonds are ready for delivery, or at the time fixed in the notice of sale, then said check and the proceeds thereof shall be the property of the City and shall be considered as its liquidated damages on account of such default. Said notice may also provide that bidders for the Bonds will be required to name the rate or rates of interest which the Bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and that such interest rate or rates shall be in multiples of one-eighth ( $1/8$ ) or one-twentieth ( $1/20$ ) of one percent (1%). The rate bid on a maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. No conditional bid will be considered. The opinion of Ice Miller LLP, bond counsel of Indianapolis, Indiana, approving the legality of the Bonds, will be furnished to the purchaser at the expense of the City.

The Bonds shall be awarded by the Clerk-Treasurer to the best bidder who has submitted his bid in accordance with the terms of this ordinance, IC 5-1-11 and the notice. The best bidder will be the one who offers the lowest net interest cost to the City, to be determined by computing the total interest on all of the Bonds to their maturities, deducting the premium bid, if any and adding thereto the discount bid, if any. The right to reject any and all bids shall be reserved. If an acceptable bid is not received on the date of sale, the sale may be continued from day to day thereafter without further advertisement for a period of thirty (30) days, during which time no bid which provides a higher net interest cost to the City than the best bid received at the time of the advertised sale will be considered. As an alternative to public sale, the Clerk-Treasurer may negotiate the sale of the Bonds to the Authority as part of its DWSRF Program. The Mayor and the Clerk-Treasurer are hereby authorized to (i) submit an application to the Authority as part of its SRF Program, (ii) execute a Financial Assistance Agreement with the Authority with terms conforming to this ordinance, and (iii) sell such Bonds upon such terms as are acceptable to the Mayor and the Clerk-Treasurer consistent with the terms of this ordinance. The substantially final form of Financial Assistance Agreement attached hereto and incorporated herein by

reference is hereby approved by the Common Council and the Mayor and Clerk-Treasurer are hereby authorized to execute and deliver the same, and to approve any changes in form or substance to the Financial Assistance Agreement, which are consistent with the terms of this ordinance, such changes to be conclusively evidenced by its execution.

Section 3. Financial Records and Accounts; Continuing Disclosure. The City shall keep proper records and books of account, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues received on account of the operation of the waterworks and all disbursements made therefrom and all transactions relating to the waterworks. Copies of all such statements and reports shall be kept on file in the office of the Clerk-Treasurer.

(b) If the Bonds or BANs are sold to the Authority as part of the DWSRF Program, the City shall establish and maintain the books and other financial records of the Project (including the establishment of a separate account or subaccount for the Project) and the waterworks in accordance with (i) generally accepted governmental accounting standards for utilities, on an accrual basis, as promulgated by the Government Accounting Standards Board and (ii) the rules, regulations and guidance of the State Board of Accounts.

(c) If the Bonds are subject to the Rule, a Continuing Disclosure Undertaking Agreement ("Agreement") for the Bonds is hereby authorized and approved by the Common Council, and the Mayor and Clerk-Treasurer are hereby authorized and directed to complete, execute and attest the same on behalf of the City. Notwithstanding any other provisions of this ordinance, failure of the City to comply with the Agreement shall not be considered an event of default under the Bonds or this ordinance.

Section 4. Use of Proceeds and Costs of Issuance. The proceeds from the sale of the Bonds, to the extent not used to refund BANs, and BAN proceeds shall be deposited in a bank or banks which are legally designated depositories for the funds of the City, in a special account or accounts to be designated as "City of Boonville, Waterworks Construction Account" ("Construction Account"). All funds deposited to the credit of the Waterworks Sinking Fund or the Construction Account shall be deposited, held, secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including particularly IC 5-13 and IC 4-4-11, (as applicable) and the acts amendatory thereof and supplemental thereto. The funds in the Construction Account shall be expended only for the purpose of paying the cost of the Project, refunding the BANs, if issued, or as otherwise required by the Act or for the expenses of issuance of the Bonds. The cost of obtaining the legal services of Ice Miller LLP and other professional expenses including engineering and local counsel expenses, shall be considered as a part of the cost of the Project on account of which the Bonds and BANs are issued. Any balance or balances remaining unexpended in such special account or accounts after completion of the Project, which are not required to meet unpaid obligations incurred in connection with such Project, shall either (1) be paid into the Waterworks Sinking Fund and used solely for the purposes of said Waterworks Sinking Fund or (2) be used for the same purpose or type of project for which the Bonds were originally issued, all in accordance with IC 5-1-13, as amended and supplemented.

If the Bonds are sold to the Authority as part of the DWSRF Program, to the extent (a) that the total principal amount of the Bonds is not paid by the purchaser or drawn down by the City or (b) proceeds remain in the Construction Account and are not applied to the Project (or any modifications or additions thereto approved by the Department and Authority), the City shall reduce the principal amount of the Bond maturities to effect such reduction in a manner that will

still achieve a level annual debt service as practicable as described in Section 2 subject to and upon the terms set forth in the Financial Assistance Agreement.

Section 5. Accrued Interest. The accrued interest received at the time of delivery of the Bonds, if any, and premium, if any, shall be deposited in the Waterworks Sinking Fund continued in Section 15.

Section 6. Pledge of Net Revenues. The interest on and the principal of the Bonds issued pursuant to the provisions of this ordinance, and any bonds hereafter issued on a parity therewith, shall constitute a first charge on all the Net Revenues, and such Net Revenues are hereby irrevocably pledged to the payment of the interest on and principal of such Bonds, to the extent necessary for that purpose.

Section 7. Revenue Fund. There is hereby continued a fund known as the Waterworks Revenue Fund ("Revenue Fund") into which there shall be deposited upon receipt all income and revenues of the waterworks. The Revenue Fund shall be maintained separate and apart from all other accounts of the City. Of these revenues the proper and reasonable expenses of operation, repair and maintenance of the works shall be paid, the requirements of the Sinking Fund shall be met, and the costs of replacements, extensions, additions and improvements shall be paid.

Section 8. Operation and Maintenance Fund. There is hereby continued a fund known as the Operation and Maintenance Fund ("O&M Fund"). On the last day of each calendar month, revenues of the waterworks shall be transferred from the Revenue Fund to the O&M Fund. The balance maintained in this Fund shall be sufficient to pay the expenses of operation, repair and maintenance for the then next succeeding two calendar months. The moneys credited to this Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the waterworks on a day-to-day basis. Any moneys in said Fund in excess of one month's costs of operating, repairing and maintaining said waterworks may be transferred to the Waterworks Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds of the waterworks.

Section 9. Waterworks Sinking Fund. (a) There is hereby continued a special fund designated the "Waterworks Sinking Fund" (herein, "Waterworks Sinking Fund" or "Sinking Fund") for the payment of the principal of and interest on all outstanding revenue bonds which by their terms are payable from the Net Revenues of the waterworks and the payment of any fiscal agency charges in connection with the payment of bonds. There shall be set aside and deposited in the Sinking Fund, as available, and as hereinafter provided, a sufficient amount of the Net Revenues of the waterworks to meet the requirements of the Bond and Interest Account and Debt Service Reserve Account hereby continued in the Sinking Fund. Such payments shall continue until the balances in the Bond and Interest Account and the Debt Service Reserve Account equal the principal of and interest on all of the then outstanding bonds of the waterworks to their final maturity.

(a) Bond and Interest Account. There is hereby continued, within the Sinking Fund, the Bond and Interest Account. There shall be credited on the last day of each calendar month from the Revenue Fund, after first making the required deposit to the O&M Fund, to the Bond and Interest Account an amount of the Net Revenues equal to: (i) at least one-sixth ( $1/6$ ) of the interest on all then outstanding bonds payable on the then next succeeding interest payment date; and (ii) at least one-twelfth ( $1/12$ ) of the principal of all then outstanding bonds payable on the then next succeeding principal payment date, until the amount of interest and principal payable on the then next succeeding interest and principal payment dates shall have been so credited.

There shall similarly be credited to the account any amount necessary to pay the bank fiscal agency charges for paying principal and interest on outstanding bonds as the same become payable. The City shall, from the sums deposited in the Sinking Fund and credited to the Bond and Interest Account, remit promptly to the registered owner or to the bank fiscal agency sufficient moneys to pay the interest and principal on the due dates thereof together with the amount of bank fiscal agency charges.

(b) Debt Service Reserve Account. There is hereby continued, within the Sinking Fund, the Debt Service Reserve Account ("Reserve Account"). Upon the delivery of the Bonds, the City may deposit funds on hand, Bond proceeds, or any combination thereof, into the Reserve Account up to an amount which shall not exceed or cause the balance therein to not exceed the hereinafter defined Reserve Requirement. If no initial deposit is made or if the balance in the Reserve Account does not equal the Reserve Requirement, a sum of Net Revenues of the waterworks shall be deposited into the Reserve Account on the last day of each calendar month until the balance therein equals but does not exceed the least of: (i) the maximum annual debt service on the Outstanding Bond and the Bonds and any parity bonds issued in the future by the City which are payable from the Net Revenues of the waterworks ("Parity Bonds"); (ii) 125% of average annual debt service on the Outstanding Bonds, the Bonds and any Parity Bonds; or (iii) 10% of the principal amount of the Outstanding Bonds, the Bonds and any Parity Bonds ("Reserve Requirement"). If the Bonds are sold to the Authority as part of its DWSRF Program, the Reserve Requirement shall mean the maximum annual debt service on the Bonds, the Outstanding Bonds and any Parity Bonds. The monthly deposits shall be equal in amount and sufficient to accumulate the Reserve Requirement within five years of the date of delivery of the Bonds.

The Reserve Requirement may be satisfied with cash, a debt service reserve surety bond or a combination thereof. The surety bond must be issued by an insurance company rated in the highest rating category by Standard & Poor's Corporation and Moody's Investors Service. The Reserve Account shall constitute the margin for safety and protection against default in the payment of principal of and interest on the Outstanding Bonds, the Bonds and any Parity Bonds, and the moneys in the Reserve Account shall be used to pay current principal and interest on the Outstanding Bonds, the Bonds and any Parity Bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiency in the balance maintained in the Reserve Account shall be made up from the next available Net Revenues remaining after credits into the Bond and Interest Account. If moneys in the Reserve Account are transferred to the Bond and Interest Account to pay principal and interest on any Outstanding Bonds, Bonds or Parity Bonds, then this depletion of the balance in the Reserve Account shall be made up from the next available Net Revenues after the credits into the Bond and Interest Account. Any moneys in the Reserve Account in excess of the Reserve Requirement shall be transferred to the Waterworks Improvement Fund.

(c) The Sinking Fund, containing the Bond and Interest Account, the Reserve Account and the Construction Account, may be held by a financial institution acceptable to the Authority as part of its SRF Program, pursuant to terms acceptable to the Authority. If the Sinking Fund and the accounts therein are held in trust, the City shall transfer the monthly required amounts of Net Revenues to the Bond and Interest Account and the Reserve Account in accordance with Section 14, and the financial institution holding such funds in trust shall be instructed to pay the required payments in accordance with the payment schedules for the City's Outstanding Bonds. The financial institution selected to serve in this role may also serve as the

Registrar and the Paying Agent for any series of the Bonds and for all or any of the Outstanding Bonds. If the Construction Account is so held in trust, the City shall deposit the proceeds of the Bonds therein until such proceeds are applied consistent with this ordinance and the Financial Assistance Agreement. The Mayor and the Clerk-Treasurer are hereby authorized to execute and deliver an agreement with a financial institution to reflect this trust arrangement for all or a part of the Sinking Fund and the Construction Account in the form of trust agreement as approved by the Mayor and the Clerk-Treasurer, consistent with the terms and provisions of this ordinance.

Section 2. Waterworks Improvement Fund. There is hereby continued a special fund designated the "Waterworks Improvement Fund". After meeting the requirements of the Sinking Fund and the O&M Fund, any excess revenues may be transferred or credited from the Revenue Fund to the Waterworks Improvement Fund, and said Fund shall be used for extensions, betterments and additions to the waterworks. All or any portion of the funds accumulated and reserved in the Improvement Fund shall be transferred to the Sinking Fund, if necessary, to prevent a default in the payment of principal of and interest on bonds payable from said Sinking Fund or to eliminate any deficiencies in credits to or minimum balance in the Reserve Fund. Moneys in the Improvement Fund may also be transferred to the O&M Fund to meet unforeseen contingencies in the operation, repair and maintenance of the waterworks.

Section 3. Maintenance of Funds. The Sinking Fund shall be deposited in and maintained as a separate account or accounts from all other accounts of the City. The O&M Fund and the Waterworks Improvement Fund may be maintained in a single account, or accounts, but such account, or accounts, shall likewise be maintained separate and apart from all other accounts of the City and apart from the Sinking Fund account or accounts. All moneys deposited in the accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided that moneys therein may be invested in obligations in accordance with the applicable laws, including particularly Indiana Code, Title 5, Article 13, and Indiana Code, Title 4, Article 4, Section 11 (as applicable) and the acts amendatory thereof and supplemental thereto, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this ordinance.

Section 4. Defeasance of the Bonds. If, when the Bonds or a portion thereof shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the Bonds or a portion thereof for redemption shall have been given, and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the Bonds or a portion thereof then outstanding shall be paid; or (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in (ii) below), or (ii) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America, the principal of and the interest on which when due will provide sufficient moneys for such purpose, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case the Bonds or any designated portion thereof issued hereunder shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the City's waterworks.

Section 5. Rate Covenant. The City shall establish and maintain just and equitable rates for the use of and the service rendered by the waterworks, which shall to the extent permitted by law produce sufficient revenues at all times to pay all the legal and other necessary expense incident to the operation of such utility, to include maintenance costs, operating charges,

upkeep, repairs, interest charges on bonds or other obligations, to provide for the proper Operation and Maintenance (as defined in the Financial Assistance Agreement), to comply with and satisfy all covenants contained in this ordinance and the Financial Assistance Agreement, to provide the sinking fund and debt service reserve for the liquidation of bonds or other evidences of indebtedness, to provide adequate funds to be used as working capital, as well as funds for making extensions, additions, and replacements, and also, for the payment of any taxes that may be assessed against such utility, it being the intent and purpose hereof that such charges shall produce an income sufficient to maintain such utility property in a sound physical and financial condition to render adequate and efficient service. So long as any of the Bonds herein authorized are outstanding, none of the facilities or services afforded or rendered by said system shall be furnished without a reasonable and just charge being made therefor. The City shall pay like charges for any and all services rendered by said utility to the City, and all such payments shall be deemed to be revenues of the utility. Such rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of operation, repair and maintenance, and said requirements of the Sinking Fund.

Section 6. Additional Bond Provisions. The City reserves the right to authorize and issue additional BANs at any time ranking on a parity with the BANs. The City reserves the right to authorize and issue additional Parity Bonds payable out of the Net Revenues of its waterworks ranking on a parity with the Bonds for the purpose of financing the cost of future additions, extensions, replacements and improvements to its waterworks, or to refund obligations, subject to the following conditions:

(a) The interest on and principal of all bonds payable from the Net Revenues of the waterworks shall have been paid in accordance with their terms. All required payments into the Sinking Fund shall have been made in accordance with the provisions of this ordinance. The Reserve Requirement shall be satisfied for the additional Parity Bonds either at the time of delivery of the additional Parity Bonds or over a five year or shorter period, in a manner which is commensurate with the requirements established in Section 15 of this ordinance.

(b) The Net Revenues of the waterworks in the fiscal year immediately preceding the issuance of any such Parity Bonds shall be not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then Outstanding Obligations and the additional Parity Bonds proposed to be issued; or, prior to the issuance of the Parity Bonds the water rates and charges shall be increased sufficiently so that the increased rates and charges applied to the previous fiscal year's operations would have produced Net Revenues for said year equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of all bonds payable from the revenues of the waterworks, including the additional Parity Bonds proposed to be issued.

For purposes of this subsection, the records of the waterworks shall be analyzed and all showings prepared by a certified public accountant employed by the City for that purpose.

(c) The principal of and interest on the additional Parity Bonds shall be payable annually on the first day of January or semiannually on January 1 and July 1, in the years which such principal and interest are payable.

(d) If the Bonds are sold to the Authority through its DWSRF Program, the City obtains the consent of the Authority; the City has faithfully performed and is in compliance with each of its obligations, agreements and covenants contained in the Financial Assistance Agreement and this ordinance; and the City is in compliance with its waterworks permits, except



for non-compliance for which purpose the Parity Bonds are issued, including refunding bonds issued prior to, but part of the overall plan to eliminate such non-compliance.

Section 7. Further Covenants of the City; Maintenance, Insurance, Pledge Not To Encumber, Subordinate Indebtedness, and Contract with Bondholders. For the purpose of further safeguarding the interests of the owners of the Bonds and BANs, it is hereby specifically provided as follows:

(a) All contracts let by the City in connection with the construction of the Project shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to one hundred percent (100%) of the amount of such contracts, to insure the completion of said contracts in accordance with their terms, and such contractors shall also be required to carry such employers' liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(b) The Project shall be constructed under plans and specifications approved by a competent engineer designated by the City. All estimates for work done or material furnished shall first be checked by the engineer and approved by the City.

(c) So long as any of the Bonds or BANs are outstanding, the City shall at all times maintain the waterworks system in good condition, and operate the same in an efficient manner and at a reasonable cost.

(d) So long as any of the BANs or Bonds herein authorized are outstanding, the City shall acquire and maintain insurance, including fidelity bonds, to protect the waterworks and its operations, and which insurance coverage shall be acceptable to the Authority so long as the Bonds are owned by the Authority as part of its DWSRF Program. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. If the Bonds or BANs are sold to another purchaser, as an alternative to maintaining such insurance, the City may maintain a self-insurance program with catastrophic or similar coverage so long as such program meets the requirements of any applicable laws or regulations and is maintained in a manner consistent with programs maintained by similarly situated municipalities.

All insurance and condemnation proceeds shall be used for replacing or repairing the property destroyed or damaged unless the Authority consents to another use.

(e) So long as any of the BANs or Bonds are outstanding, the City shall not sell, transfer, lease or otherwise encumber the waterworks, or any portion thereof, or any interest therein without the prior written consent of the Authority so long as such BANs or Bonds are sold to the Authority as part of its DWSRF Program.

(f) If the BANs or Bonds are sold to the Authority as part of its SRF Program, the City shall not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the waterworks, other than for normal operating expenditures, without the prior written consent of the Authority if such undertaking would involve, commit or use the revenues of the waterworks.

(g) Except as otherwise specifically provided in Section 20 of this ordinance, so long as any of the Bonds are outstanding, no additional bonds or other obligations pledging any portion of the revenues of the system shall be authorized, issued or executed by the City, except such as shall be made junior and subordinate in all respects to the Bonds, unless all of the Bonds

are redeemed or defeased coincidentally with the delivery of such additional bonds or other obligations.

(h) The provisions of this ordinance shall constitute a contract by and between the City and the owners of the Bonds and BANs herein authorized, all the terms of which shall be enforceable by any bondholder by any and all appropriate proceedings in law or in equity. After the issuance of the Bonds or BANs, this ordinance shall not be repealed, amended or modified in any respect which will adversely affect the rights or interests of the owners of the Bonds or BANs, nor shall the Common Council or any other body of the City adopt any law, ordinance or resolution in any way adversely affecting the rights of such owners so long as any of the Bonds, the BANs, or the interest thereon, remain outstanding or unpaid. Except in the case of changes described in Section 22 (a)-(f), this ordinance may be amended, however, without the consent of the owners of the Bonds and BANs, if the Common Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the Bonds and BANs; provided, however, that if the Bonds or BANs are sold to the Authority through its DWSRF Program, the City shall obtain the prior written consent of the Authority.

(i) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the Bonds and BANs herein authorized for the uses and purposes herein set forth, and the owners of the Bonds and BANs shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this ordinance and said governing Act. The provisions of this ordinance shall also be construed to create a trust in the Net Revenues herein directed to be set apart and paid into the Sinking Fund for the uses and purposes of that Fund as in this ordinance set forth. The owners of the Bonds shall have all of the rights, remedies and privileges set forth in the provisions of the governing Act hereinbefore referred to, including the right to have a receiver appointed to administer said waterworks, in the event the City shall fail or refuse to fix and collect sufficient rates and charges, or shall fail or refuse to operate, repair and maintain said system and to apply the revenues derived from the operation thereof, or if there be a default in the payment of the principal of or interest on any of the Bonds herein authorized or in the event of default in respect to any of the provisions of this ordinance or the governing Act.

Section 8. Amendments with Consent of Bondholders. Subject to the terms and provisions contained in this Section and Section 21(h), and not otherwise, the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds issued pursuant to this ordinance and then outstanding shall have the right from time to time, to consent to and approve the adoption by the Common Council of the City of such ordinance or ordinances supplemental hereto or amendatory hereof, as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that if the Bonds or BANs are sold to the Authority as part of its DWSRF Program, the City shall obtain the prior written consent of the State of Indiana; and provided further, that nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity of the principal of or interest on, or any mandatory sinking fund redemption date for, any Bond issued pursuant to this ordinance; or

(b) A reduction in the principal amount of any Bond or the redemption premium or the rate of interest thereon; or

(c) The creation of a lien upon or a pledge of the revenues or Net Revenues of the waterworks ranking prior to the pledge thereof created by this ordinance; or

(d) A preference or priority of any Bond or Bonds issued pursuant to this ordinance over any other Bond or Bonds issued pursuant to the provisions of this ordinance; or

(e) A reduction in the aggregate principal amount of the Bonds required for consent to such supplemental ordinance; or

(f) A reduction in the Reserve Requirement.

If the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Clerk-Treasurer of the City, no owner of any Bond issued pursuant to this ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Common Council of the City from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City and all owners of Bonds then outstanding, shall thereafter be determined, exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights and obligations of the City and of the owners of the Bonds authorized by this ordinance, and the terms and provisions of the Bonds and this ordinance, or any supplemental or amendatory ordinance, may be modified or altered in any respect with the consent of the City and the consent of the owners of all the Bonds then outstanding.

**Section 9. Investment of Funds.**

(a) The Clerk-Treasurer is hereby authorized to invest moneys pursuant to the provisions of this ordinance and IC 5-1-14-3 (subject to applicable requirements of federal law to insure such yield is then current market rate) to the extent necessary or advisable to preserve the exclusion from gross income of interest on the Bonds and BANs under federal law.

(b) The Clerk-Treasurer shall keep full and accurate records of investment earnings and income from moneys held in the funds and accounts referenced herein. In order to comply with the provisions of the ordinance, the Clerk-Treasurer is hereby authorized and directed to employ consultants or attorneys from time to time to advise the City as to requirements of federal law to preserve the tax exclusion. The Clerk-Treasurer may pay any fees as operation expenses of the waterworks.

**Section 10. Tax Covenants.** In order to preserve the exclusion of interest on the Bonds and BANs from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986 as existing on the date of issuance of the Bonds or BANs, as the case may be ("Code"), and as an inducement to purchasers of the Bonds and BANs, the City represents, covenants and agrees that:

(a) The waterworks will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. No person or entity other than the City or another state or local governmental unit will use more than 10% of the proceeds of the Bonds or BANs or property financed by the Bond or BAN proceeds other than as a member of the general public. No person or entity other than the City or another state or local governmental unit will own property financed by Bond or BAN proceeds or will have any actual or beneficial use of such property pursuant to a lease, a

management or incentive payment contract, arrangements such as take-or-pay or output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from use by the general public, unless such uses in the aggregate relate to no more than 10% of the proceeds of the BANs or the Bonds, as the case may be. If the City enters into a management contract for the waterworks, the terms of the contract will comply with IRS Revenue Procedure 97-13, as it may be amended, supplemented or superseded for time to time, so that the contract will not give rise to private business use under the Code and the Regulations, unless such use in aggregate relates to no more than 10% of the proceeds of the Bonds or BANs, as the case may be.

(b) No more than 10% of the principal of or interest on the Bonds or BANs is (under the terms of the Bonds, BANs, this ordinance or any underlying arrangement), directly or indirectly, secured by an interest in property used or to be used for any private business use or payments in respect of any private business use or payments in respect of such property or to be derived from payments (whether or not to the City) in respect of such property or borrowed money used or to be used for a private business use.

(c) No more than 5% of the Bond or BAN proceeds will be loaned to any person or entity other than another state or local governmental unit. No more than 5% of the Bond or BAN proceeds will be transferred, directly or indirectly, or deemed transferred to a nongovernmental person in any manner that would in substance constitute a loan of the Bond or BAN proceeds.

(d) The City reasonably expects, as of the date hereof, that the Bonds and BANs will not meet either the private business use test described in paragraph (a) and (b) above or the private loan test described in paragraph (c) above during the entire term of the Bonds or BANs, as the case may be.

(e) No more than 5% of the proceeds of the Bonds or BANs will be attributable to private business use as described in (a) and private security or payments described in (b) attributable to unrelated or disproportionate private business use. For this purpose, the private business use test is applied by taking into account only use that is not related to any government use of proceeds of the issue (Unrelated Use) and use that is related but disproportionate to any governmental use of those proceeds (Disproportionate Use).

(f) The City will not take any action nor fail to take any action with respect to the Bonds or BANs that would result in the loss of the exclusion from gross income for federal tax purposes on the Bonds or BANs pursuant to Section 103 of the Code, nor will the City act in any other manner which would adversely affect such exclusion. The City covenants and agrees not to enter into any contracts or arrangements which would cause the Bonds or BANs to be treated as private activity bonds under Section 141 of the Code.

(g) It shall not be an event of default under this ordinance if the interest on any Bond is not excludable from gross income for federal tax purposes or otherwise pursuant to any provision of the Code which is not currently in effect and in existence on the date of issuance of the Bonds or BANs, as the case may be.

(h) These covenants are based solely on current law in effect and in existence on the date of delivery of such Bonds or BANs, as the case may be.

(i) The City represents that:

(1) The BANs and the Bonds are not private activity bonds as defined in Section 141 of the Code;

(2) The City hereby designates the BANs and the Bonds as qualified tax-exempt obligations for purposes of Section 265(b) of the Code; (3) The reasonably anticipated amount of qualified tax-exempt obligations (including qualified 501(c)(3) obligations and tax-exempt leases but excluding other private activity bonds) which will be issued by the City and all entities subordinate to the City during 2008 does not exceed \$10,000,000; (4) The City has not and will not designate more than \$10,000,000 of qualified tax-exempt obligations during 2008.

Therefore, the BANs and the Bonds qualify for the exception in the Code from the disallowance of 100% of the deduction by financial institutions of interest expense allocable to newly acquired tax-exempt obligations.

Section 11. Issuance of BANs. (a) The City, having satisfied all the statutory requirements for the issuance of its Bonds, may elect to issue its BAN or BANs pursuant to a Bond Anticipation Note Purchase Agreement ("Bond Anticipation Note Agreement") to be entered into between the City and the purchaser of the BAN or BANs. If the BANs are sold to the Authority through its DWSRF Program, the Financial Assistance Agreement shall serve as the Bond Anticipation Note Agreement. The Common Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing the Bonds to provide interim financing for the Project until permanent financing becomes available. It shall not be necessary for the City to repeat the procedures for the issuance of its Bonds, as the procedures followed before the issuance of the BAN or BANs are for all purposes sufficient to authorize the issuance of the Bonds and the use of the proceeds to repay the BAN or BANs.

(b) The Mayor and the Clerk-Treasurer are hereby authorized and directed to execute a Bond Anticipation Note Agreement or Financial Assistance Agreement (and any amendments made from time to time) in such form or substance as they shall approve acting upon the advice of counsel. The Mayor and the Clerk-Treasurer may also take such other actions or deliver such other certificates as are necessary or desirable in connection with the issuance of the BANs or the Bonds and the other documents needed for the financing as they deem necessary or desirable in connection therewith.

Section 12. Noncompliance with Tax Covenants. Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in this ordinance ("Tax Sections") which are designed to preserve the exclusion of interest on the Bonds and BANs from gross income under federal law ("Tax Exemption") need not be complied with if the City receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

Section 13. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however that this ordinance shall not be deemed in any way to repeal or amend the ordinances authorizing the issuance of the Outstanding Bonds, nor be construed as adversely affecting the rights of the holders of the Outstanding Bonds.

Section 14. Headings. The headings or titles of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this ordinance.

Section 15. Effective Date. This ordinance shall be in full force and effect from and after its passage and execution by the Mayor.

Passed and adopted by the Common Council of the City of Boonville this 8th day of May, 2008.

Sam Henderson  
COMMON COUNCIL CITY OF BOONVILLE  
Presiding Officer

Attest:

Nancy Shull  
Clerk-Treasurer Presented by me to the Mayor of the City of Boonville on the 8th day of May, 2008, at the hour of 5:00 p.m.

Nancy Shull  
Clerk Treasurer

This ordinance approved and signed by me, the Mayor of the City of Boonville, on the 8th day of May, 2008, at the hour of 6:30 p.m.

Sam Henderson  
Mayor

## EXHIBIT A

### Description of Project

**Project Description  
For  
Water System Improvements – Phase II  
For The  
City of Boonville  
Warrick County, Indiana**

- Construct two (2) new 500 gpm wells, make improvements to the existing wells, and purchase a portable generator for the well field.
- Abandon old well field that is currently not being used.
- Construct new 3,000 gpm water treatment plant.
- Sandblast and re-paint the existing 500,000 Gallon Elevated Water Storage Tank near the hospital.



PROBABLE PROJECT COST  
FOR  
WATER SYSTEM IMPROVEMENTS - PHASE II  
FOR THE  
CITY OF BOONVILLE  
APRIL, 2008

I. PROBABLE CONSTRUCTION COSTS - WELL FIELD IMPROVEMENTS

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT PRICE	TOTAL PRICE
1.	NEW 500 GPM WELLS	2 EA.	\$170,000.00	\$340,000.00
2.	16" D.I. WATER MAIN W/POLY. ENCASEMENT	600 L.F.	\$60.00	\$36,000.00
3.	12" D.I. WATER MAIN W/POLY. ENCASEMENT	500 L.F.	\$50.00	\$25,000.00
4.	PORTABLE GENERATOR	1 L.S.	\$60,000.00	\$60,000.00
5.	ABANDON OLD WELL FIELD	1 L.S.	\$20,000.00	\$20,000.00
6.	EXISTING WELL FIELD IMPROVEMENTS	1 L.S.	\$20,000.00	\$20,000.00
SUB-TOTAL				\$501,000.00
CONTINGENCIES				\$49,000.00
TOTAL PROBABLE CONSTRUCTION COSTS - WELL FIELD IMPROVEMENTS				\$550,000.00

II. PROBABLE CONSTRUCTION COSTS - NEW WATER TREATMENT PLANT

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT PRICE	TOTAL PRICE
1.	NEW WATER TREATMENT PLANT	1 L.S.	\$5,160,000.00	\$5,160,000.00
SUB-TOTAL				\$5,160,000.00
CONTINGENCIES				\$520,000.00
TOTAL PROBABLE CONSTRUCTION COSTS - NEW WATER TREATMENT PLANT				\$5,680,000.00

III. PROBABLE CONSTRUCTION COSTS - RE-PAINTING EXISTING WATER STORAGE TANK

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT PRICE	TOTAL PRICE
1.	SANDBLAST & RE-PAINT EXISTING 500,000 GALLON ELEVATED WATER STORAGE TANK	1 L.S.	\$225,000.00	\$225,000.00
SUB-TOTAL				\$225,000.00
CONTINGENCIES				\$25,000.00
TOTAL PROBABLE CONST. COSTS - RE-PAINTING EXISTING WATER STORAGE TANK				\$250,000.00

TOTAL PROBABLE CONSTRUCTION COSTS \$6,480,000.00

**IV. PROBABLE NON-CONSTRUCTION COSTS**

1. ENGINEERING	\$450,000.00
2. INSPECTION	\$185,000.00
3. LEGAL, BOND COUNSEL & ISSUANCE COSTS	\$280,000.00
4. RATE ACCOUNTANT	\$100,000.00
5. SOIL BORINGS & PERMITS	\$33,000.00
6. LAND FOR NEW WELL FIELD	<u>\$72,000.00</u>

<b>TOTAL PROBABLE NON-CONSTRUCTION COSTS</b>	<b>\$1,120,000.00</b>
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**V. TOTAL PROBABLE PROJECT COSTS**

**\$7,600,000.00**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR  
THE USE AND SERVICES RENDERED BY THE WATERWORKS  
OF THE CITY OF BOONVILLE AND REPEALING  
ORDINANCES INCONSISTENT HEREWITH

WHEREAS, the Common Council of the City of Boonville, Indiana ("City") has heretofore constructed and has in operation a municipal waterworks; and

WHEREAS, the City has caused a financial study of the City's municipal waterworks to be made by H.J. Umbaugh & Associates, Certified Public Accountants, LLP, Indianapolis, Indiana in connection with a proposed project for the construction of additions, improvements and extensions to the waterworks ("Project"); and

WHEREAS, the study indicates that the rates and charges are not sufficient to enable the City to properly operate its waterworks plant, service its bonds and finance additions and improvements to its waterworks system; and

WHEREAS, the City has made application to the Indiana Utility Regulatory Commission ("Commission") to adjust water rates in order to permit rates to reflect inflation, increased costs of supplying water and services to customers and to issue revenue bonds and obtain financing from either the Indiana Finance Authority through its Drinking Water State Revolving Loan Fund Program or through the open market for construction of the Project; and

WHEREAS, the Common Council finds that the proposed rates and charges for the use of and service rendered by the waterworks of the City are estimated to be sufficient to enable the City to properly operate and maintain its waterworks plant, to provide for depreciation, to pay debt service on indebtedness of the waterworks and maintain a debt service reserve and to

finance the construction of the Project all as provided by IC 8-1.5-3-8, and the proposed rates and charges should be enacted;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BOONVILLE, INDIANA:

Section 1. There shall be and are hereby established for the use of and the service rendered by the waterworks system of the City, the rates and charges, based on the use of water supplied by said waterworks, as set forth on Exhibit A attached hereto and incorporated herein by reference.

Section 2. The rates and charges shall become effective upon the approval of the IURC and of the tariff reflecting said rates. If the schedule of rates and charges herein set out shall be adjusted in accordance with the proceedings before, and pursuant to the order of, the IURC, such rates and charges, as adjusted, shall become effective without further action of the Common Council, upon the tariff being approved by the IURC. Such adjusted rates and charges shall be implemented in the next billing cycle of the utility. A file stamped copy of such approved tariff shall be attached to this ordinance before this ordinance is filed in the permanent records of the City.

Section 3. All ordinances and parts of ordinances in conflict herewith are repealed; provided, however that the existing schedule of water rates and charges shall remain in full force and effect unless and until the IURC shall approve the new schedule of rates and charges contained herein.

Adopted this \_\_\_\_ day of June, 2008.

COMMON COUNCIL, CITY OF BOONVILLE,  
INDIANA

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk-Treasurer

Presented by me to the Mayor of the City of Boonville on the \_\_\_\_ day of \_\_\_\_\_, 2008, at the hour of \_\_:\_\_.m.

\_\_\_\_\_  
Clerk Treasurer

This ordinance approved and signed by me, the Mayor of the City of Boonville, on the \_\_\_\_ day of \_\_\_\_\_, 2008, at the hour of \_\_:\_\_.m.

\_\_\_\_\_  
Mayor

## EXHIBIT A

		<u>Monthly Rate Per 1,000 Gallons</u>	
		<u>Proposed Step I</u>	<u>Proposed Step II</u>
<u>Metered Consumption</u>			
First	10,000 gallons	\$7.23	\$7.96
Next	20,000 gallons	5.46	6.01
Next	70,000 gallons	3.63	4.00
Over	100,000 gallons	2.79	3.07

		<u>Gallons Allowed</u>	<u>Minimum Charge</u>	
<u>Minimum Charge</u>				
5/8	inch meter	2,520	\$18.22	\$20.06
3/4	inch meter	2,520	18.22	20.06
1	inch meter	6,410	46.34	51.02
1 1/2	inch meter	15,560	102.66	113.02
2	inch meter	29,660	179.64	197.76
3	inch meter	93,130	410.66	452.32
4	inch meter	268,610	906.02	997.43

		<u>Monthly Rate</u>	
		<u>Proposed Step I</u>	<u>Proposed Step II</u>
<u>Fire Protection Service</u>			
5/8	inch meter	\$4.18	\$4.60
3/4	inch meter	6.28	6.91
1	inch meter	10.56	11.62
1 1/2	inch meter	20.95	23.06
2	inch meter	33.51	36.89
3	inch meter	62.84	69.17
4	inch meter	104.73	115.29

		<u>Per Annum</u>	
Private fire hydrants, per hydrant		\$920.66	\$1,013.46
Automatic sprinklers:			
2 inch connection & under		\$168.79	\$185.80
3 inch connection		266.01	292.82
4 inch connection		358.08	394.17
6 inch connection		537.12	591.26
8 inch connection		664.92	731.94

\* Step I – rates proposed during construction.

\* Step II – rates proposed after construction.

Sales for Resale

Monthly Rate  
Per 1,000 Gallons

	Proposed <u>Step I</u>	Proposed <u>Step II</u>
Tennyson	\$2.79	\$3.07
Chandler	(Propose to be eliminated)	
Yankeetown:		
Fixed charge	\$2,395.00	\$4,015.00
Volume rate		\$2.24